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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,189	08/21/2003	John D. McNicol	801,461-009	9078
34263	7590	05/31/2005	EXAMINER	
O'MELVENY & MEYERS 114 PACIFICA, SUITE 100 IRVINE, CA 92618			LASTRA, DANIEL	
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 05/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/646,189

Applicant(s)

MCNICOL ET AL.

Examiner

DANIEL LASTRA

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2005.
2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☐ Claim(s) _____ is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☒ Claim(s) 1-20 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-20 have been examined. Application 10/646,189 has a filing date 08/21/2003 and is a continuation of 09/481,778 (Pat 6,615,179; 01/11/00) which is a continuation in part of 09/241,937 (Pat 6,347,301; 02/02/99).

Response to Interview Summary Action

2. Applicant's arguments, filed 03/15/2005, with respect to the statutory double patenting rejection(s) of claim(s) 1-20 under McNicol (US 6,615,179) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, an Election/Restriction action has been applied to the Application.

Election/Restrictions

3. Restriction to one of the following inventions is required under 35 U.S.C. 121:
- I. Claims 1-9 drawn to awarding points and coupons to consumers in a point of sale environment, classified in class 705, subclass 14.
 - II. Claims 10-17 and 19 drawn to a method for distributing flight data to a traveler using handheld devices, classified in class 235, subclass 472.
 - III. Claim 18 drawn to a method for providing electronic concierge service to a hotel guest, classified in class 705, subclass 5,6.

The inventions are distinct, each from the other because of the following reasons:

Inventions of group I and II-III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has

Art Unit: 3622

separate utility such as awarding points to consumers. This separate use distinguishes the invention of group I from group II and III since the awarding of points is not limitation of those independently claimed invention. Therefore, the invention of group I is separately useable subcombination. See MPEP §806.05(d).

Inventions II and I, III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as distributing flight data to a traveler. This separate use distinguishes the invention of group II from group I and III since the distributing flight data to a traveler is not limitation of those independently claimed invention. Therefore, the invention of group II is separately useable subcombination. See MPEP §806.05(d).

Inventions III and I-II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility such as providing electronic concierge service to a hotel guest. This separate use distinguishes the invention of group III from group I and II since the providing electronic concierge service to a hotel guest is not limitation of those independently claimed invention. Therefore, the invention of group III is separately useable subcombination. See MPEP §806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Conclusion

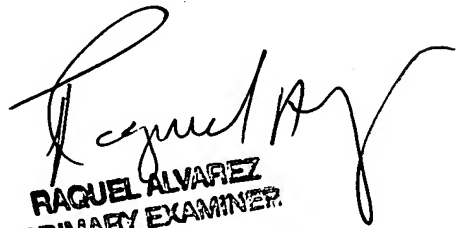
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W STAMBER can be reached on 571-272-6724. The right fax of the Examiner is 571-273-6720.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra
May 16, 2005


RAQUEL ALVAREZ
PRIMARY EXAMINER